IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

OP.No. 21689 of 2001(F)

PETITIONER:

K.SIVADAS, S/O. K. KUTTY, AGED 34 YEARS,
CHUNDEL ESTATE, CHUNDEL.P.O., WYNAD,
PIN - 673 123.

BY ADV. SRI.DENIZEN KOMATH.

RESPONDENTS:
----

1. **UNION OF INDIA, REP. BY ITS SECRETARY,**
   MINISTRY OF HOME AFFAIRS, NORTH BLOCK,
   NEW DELHI-1.

2. **DIRECTORATE GENERAL,**
   CENTRAL RESERVE POLICE FORCE (CRPF),
   C.G.O. COMPLEX, LODHI ROAD,
   NEW DELHI-3.

3. **INSPECTOR GENERAL OF POLICE,**
   NE.S, CENTRAL RESERVE POLICE FORCE,
   SHILLONG, MEGHALAYA - 1.

4. **DEPUTY INSPECTOR GENERAL OF POLICE,**
   CENTRAL RESERVE POLICE FORCE (CRPF),
   KOHIMA.

5. **THE COMMANDANT, 50 BATALLION,**
   CENTRAL RESERVE POLICE FORCE, KALKAJI,
   NEW DELHI - 110 019.

BY

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO. 21689/2001:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER IN CRL. M.P. NO. 30/91 IN THE SESSIONS COURT, WAYANAD, KALPETTA DTD. 13/03/1991.

EXT.P.2: COPY OF THE INFORMATION SERVED TO THE R.5. BY THIS PETITIONER'S FATHER DTD. 23/01/1992.

EXT.P.3: COPY OF THE ORDER OF SUSPENSION VIDE REFERENCE NO. P. VIII-8/91 EC-11 DTD. 04/03/1991.

EXT.P.4: COPY OF THE REPLY SENT BY THE PETITIONER TO THE R.5 DTD. 14/08/1992.

EXT.P.5: COPY OF THE MEMORANDUM ISSUED FROM THE OFFICE OF R.5.

EXT.P.6: COPY OF THE IMPUGNED ORDER OF DISMISSAL OF THIS PETITIONER FROM SERVICE DTD. 08/02/1993.

EXT.P.7: COPY OF THE REPLY SENT BY THE PETITIONER TO THE R.5 DTD. 01/03/1993.

EXT.P.8: COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER BEFORE R.5. DTD. 11/10/1995.

EXT.P.9: COPY OF THE JUDGMENT IN O.P. NO. 10640/98 DTD. 10/06/1998.

EXT.P.10: COPY OF THE INTIMATION ISSUED FROM THE OFFICE OF R.5. DTD. 03/11/1998.

EXT.P.11: COPY OF THE ORDER OF R.4. VIDE REFERENCE NO:R.XIII 5/99-EC-III DTD. 27/05/1999.

EXT.P.12: COPY OF THE DISMISSAL ORDER OF THE R.3. DTD. 04/09/1999.

EXT.P.13: COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER BEFORE R.2. DTD. 21/10/1999.

EXT.P.13.A: COPY OF THE REMINDER FILED BY THE PETITIONER BEORE R.2. DTD. 01/12/1999.

EXT.P.14: COPY OF THE DECISION REACHED BY THE R.2. DTD. 22/03/2000.

EXT.P.15: COPY OF THE INTIMATION SERVED FROM THE OFICE OF R.1. MINISTRY DTD. 04/09/2000.

EXT.P.16: COPY OF THE JUDGMENT IN SC. NO. 68/1993 IN THE FILE OF SESSIONS CORT, KALPETTA.

O.P. NO. 21689/2001:

RESPONDENT'S EXHIBITS:

EXT.R (A): COPY OF THE LETTER DTD. 26/02/1991 OF THE DD (ADM.), DET. GENL. CRPF NO. D.X. 2/91-ADM-IV.

EXT.R (B) : COPY OF THE LETTER DTD. 23/01/1992.

EXT.R (C) : COPY OF THE ORDER NO. P. VIII.8/91-EC-II DTD. 04/03/91.

EXT.R (D) : COPY OF THE LETTER NO. P. VIII.8/92-50-EC-I DTD. 23/05/92.

EXT.R (E) : COPY OF THE LETTER DTD. 06/08/92.

EXT.R (F) : COPY OF THE DISMISSAL ORDER AGAINST THE PETITIONER W.E.F. 08/02/93.

EXT.R (G) : COPY OF THE LETTER NO. P. VIII.8/91-95-EC-2-50 DTD. 20/10/95.

EXT.R (H) : COPY OF THE ORDER NO. R. XIII.5/99-EC-III DTD. 27/05/99 ISSUED BY THE COMMANDANT - 50, BN, CRPF, KOHIMA.

//TRUE COPY//

prv.

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.21689 of 2001-F

&

I.A.No. 8693 of 2007

= =

Dated this the 27th day of June, 2007.

JUDGMENT

The captioned interlocutory application is for admission of additional evidence in this writ petition. Having perused the affidavit filed in support of that petition and having heard counsel for the parties, I am satisfied that the petitioner has demonstrated sufficient reason for admission of the materials produced along with the I.A. as evidence as Ext.P16. The same is relevant for a decision in this case. Hence, the I.A. is allowed.

2. The petitioner was dismissed from the service in exercise of power under the provisions of the CRPF Act, 1949. The allegation against him was that he overstayed leave and did not report for duty after expiry of the leave granted to him, on the basis of which he had come down to his native place. His

case at that point of time was that he was unfortunately involved in a criminal case and that the conditions imposed by the Court of Session granting bail were such that he was not permitted to move out of the limits of Wayanad District in Kerala State. As of now, Ext.P16 judgment taken on record today, in terms of the order on I.A.8693/2007, would show that what the petitioner got ultimately at the conclusion of the criminal trial was an order of honourable acquittal of the charges levelled against him. The charges of rape and murder for which he was put to trial were found to be not established. It was found by the Court of Session that there was no chance to hold that it was the petitioner who was responsible for the death in question. There was also no material to connect the petitioner even with any physical assault on the victim because, it was the medical evidence that the dead body did not show any signs of rape.

3. In the aforesaid circumstances, the foundation of his removal from service was, obviously, one which was beyond the control of the petitioner and requires a second look at the hands of the competent authorities.

4. In the very peculiar facts and circumstances of the case, the impugned Ext.P6 and the orders that followed it, from the official respondents, are set aside and it is directed that the enquiry against the petitioner shall be held de novo and answered within an outer limit of six months from now.

The writ petition is allowed as above. No costs.

Sd/-

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.21689 of 2001-F

& I.A.No. 8693 of 2007

= =

JUDGMENT

Dated: 27th June, 2007.